

# MONTANA STATE AUDITOR

MONICA J. LINDEEN  
STATE AUDITOR



COMMISSIONER OF INSURANCE  
COMMISSIONER OF SECURITIES

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## Advisory Memorandum

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**To:** All Health Insurers Licensed in Montana

**From:** MONICA J. LINDEEN - Commissioner of Securities and Insurance  
Office of the Montana State Auditor [CSI]

**Date:** August 21, 2009

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### Prohibiting Prescription Drug Pass-through Provisions (Senate Bill No. 133)

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In 2009, the legislature passed a bill [Senate Bill 133--Generally Revising Insurance Laws], which contains a new section [24] that prohibits "pass-through" provisions for prescription drug benefits. This section is codified at § 33-22-137, Montana Code Annotated (MCA).

This new provision provides as follows:

(1) Each group or individual health insurance policy, certificate of insurance, and membership contract that covers prescription drugs and that is delivered, issued for delivery, renewed, extended, or modified in this state must provide that after the applicable deductible is met, the insured shall pay only the required copayment or other cost-sharing requirement for a covered prescription drug at the time of purchase if the prescription drug dispenser, third party administrator, or health insurance issuer can determine that amount at the time of purchase.

Section 33-22-137, MCA applies to individual and group health insurance policies, including prescription drug only policies and blanket policies. It does not apply to disability income, hospital indemnity, Medicare supplement, accident only, vision, dental or long-term care policies. The full text of the bill language can be found at <http://leg.mt.gov>.

Section 33-22-137, MCA applies to policies, certificates, and membership contracts that are delivered, issued, renewed, extended or modified on or after January 1, 2010. Please submit all changes to forms required by 2009 legislative changes that are effective January 1, 2010 by October 1, 2009, or before, in order to avoid delays in form review. All policy and certificate forms issued for delivery in Montana must be approved by the CSI before use. In any event, forms must be filed at least 60 days before the date of intended use. Therefore, health insurers must amend, endorse, or re-file all health insurance policies and certificates with the Forms Bureau of the CSI no later than November 1, 2009, for a January 1, 2010 effective date.

If you have questions about the content of this memorandum, please contact Christina L. Goe, Chief Legal Counsel at 406-444-2040 or at [cgoe@mt.gov](mailto:cgoe@mt.gov).

If you have questions about filing forms, please contact Rosann Grandy, Forms Bureau Chief at 406-444-2040 or at [rgrandy@mt.gov](mailto:rgrandy@mt.gov).